

**RESOLUTION LIFTING SCARCE RESOURCE RESTRAINT FOR THOSE
HIGHLANDS MUNICIPALITIES THAT SUBMITTED A PETITION TO THE
COUNCIL ON AFFORDABLE HOUSING BY DECEMBER 31, 2008**

WHEREAS, on September 5, 2008, Governor Corzine signed Executive Order 114 which required the Council on Affordable Housing (COAH) and the New Jersey Highlands Council (Highlands Council) to enter into a Memorandum of Understanding (MOU) designed to coordinate the regulations of both agencies to maximize affordable housing opportunities while preserving critical environmental resources within the Highlands Region; and

WHEREAS, COAH and the Highlands Council entered into said MOU on October 30, 2008; and

WHEREAS, on November 12, 2008, COAH granted municipalities in the Highlands Region under COAH's jurisdiction a waiver of the December 31, 2008 deadline to submit a revised housing element and fair share plan pursuant to N.J.A.C. 5:96-16, until December 8, 2009; and

WHEREAS, the waiver was conditioned upon municipalities submitting, by December 31, 2008, a duly adopted Notice of Intent to Petition in accordance with the Highlands Council's Plan Conformance Guidelines, including both the Highlands Planning Area and the Highlands Preservation Area, as applicable and a duly adopted resolution notifying COAH of its intent to petition COAH for substantive certification of a housing element and fair share plan no later than December 8, 2009; and

WHEREAS, on November 12, 2008 COAH also imposed a scarce resource restraint (Restraint) to preserve land, water and wastewater resources upon on all municipalities in the Highlands Region under COAH's jurisdiction; and

WHEREAS, the scope of the Restraint applies to any and all municipal actions associated with development approvals, water allocation and wastewater allocation; and

WHEREAS, the Restraint applies to municipalities that submitted a revised housing element and fair share plan by December 31, 2008 as well as municipalities that were granted an extension as set forth above; and

WHEREAS the purpose of the Restraint is to assure that municipalities in the Highlands Region, which is identified as a special resource area by the Highlands Water Protection and Planning Act (N.J.S.A. 13:20 et seq.), are able to meet their affordable housing obligations in accordance with COAH's rules; and

WHEREAS, the Restraint is to remain in full force and effect until such time as the municipality receives substantive certification from COAH or demonstrates to COAH that appropriate measures have been taken to preserve scarce land, water, and sewer resources and that same have been dedicated on a priority basis for the production of affordable housing; and

WHEREAS, on July 17, 2008, the Fair Housing Act was amended by P.L. 2008, Chapter 46, to create a responsibility for the Highlands Council to identify and coordinate opportunities for affordable housing on a regional basis with consideration for infrastructure, employment opportunities, and transportation; and

WHEREAS, P.L.2008, c. 46 amends the Fair Housing Act to require that all residential development applications within the Highlands region must, to the extent economically feasible, contain a 20 percent on-site affordable housing set-aside; and

WHEREAS, COAH is the state agency responsible for implementation of the Fair Housing Act; and

WHEREAS, the MOU between COAH and the Highlands Council states that the Highlands Council shall identify and coordinate regional affordable housing opportunities in cooperation with municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation. Coordination of affordable housing opportunities may include methods to regionally provide housing in line with regional concerns, such as transit needs or opportunities, environmental concerns, or such other factors as the council may permit; provided, however, that such provision may not result in more than a 50 percent change in the fair share obligation of any municipality; and

WHEREAS, the Highlands Council has determined that municipalities seeking voluntary Plan Conformance are required to revise their master plans and associated regulations to conform to the provisions of the Highlands Regional Master Plan (RMP); and

WHEREAS, the MOU provides that COAH shall ensure that municipalities that choose not to conform to the RMP, for the Planning Area, may not utilize the adjusted growth projections prepared by the Highlands Council in the development of Housing Elements and Fair Share Plans; and

WHEREAS, a Highlands municipality may seek an adjustment to its affordable housing projection pursuant to COAH's rules at N.J.A.C. 5:97-5; and

WHEREAS, a number of municipalities petitioned COAH by the December 31, 2008 deadline rather than request an extension until December 8, 2009; and

WHEREAS, the housing elements and fair share plans for municipalities that petitioned COAH by the December 31, 2008 deadline are currently being reviewed by COAH; and

WHEREAS, the review being performed by COAH includes a demonstration by the municipality that it has land, water, and sewer resources necessary for the production of affordable housing as required by COAH; and

WHEREAS, it is appropriate to lift the Restraint on those municipalities who are deemed to have made a showing, in that they have submitted housing elements and fair share plans to address their full COAH projection, and their petitions are deemed to be complete, that the necessary land, water and sewer resources are available to meet those projections.

NOW, THEREFORE, BE IT RESOLVED that COAH hereby lifts the Restraint on those municipalities that have submitted third round housing elements and fair share plans to COAH subject to the following conditions:

- COAH has formally deemed the petition complete;
- The petition does not request any adjustments; and

BE IT FURTHER RESOLVED, that in accordance with Executive Order 114 and the MOU, COAH and the Highlands Council shall work in cooperation to identify sites and opportunities for affordable housing within the Highlands Region, including the creation of a realistic opportunity for at least 20 percent affordable housing set-asides in all new residential developments, with consideration for economic feasibility; and

BE IT FURTHER RESOLVED, that COAH has the responsibility to render economic feasibility determinations pursuant to the Fair Housing Act; and

BE IT FURTHER RESOLVED that if, in accordance with P.L.2008, a determination that it is not economically feasible to provide the 20 percent set-aside is sought, a waiver of the requirement shall be made to COAH, which shall make such determination after reviewing any technical information provided by the Highlands Council; and

BE IT FURTHER RESOLVED that COAH and the Highlands shall also work together to preserve scarce land, water, and sewer resources and dedicate these resources on a priority basis for the production of affordable housing consistent with the Highlands Plan, and provide priority review for proposed affordable housing projects; and

BE IT FURTHER RESOLVED those municipalities that have petitioned COAH shall continue to preserve resources needed for the affordable housing mechanisms in their fair share plans.

I hereby certify that this Resolution was duly adopted by the Council on Affordable Housing at its meeting on March 12, 2009.

A handwritten signature in black ink, reading "Renée Reiss". The signature is fluid and cursive, with the first name "Renée" and last name "Reiss" clearly distinguishable.

Renée Reiss
Council Secretary